## EXHIBIT 139

## **FAX TRANSMISSION**

U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES OFFICE OF COUNSEL TO THE INSPECTOR GENERAL 330 Independence Ave., S.W., Room 5527 Washington, D.C. 20201 (202) 619-2078

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To:

Fax #:

Bob Niemann

Date:

April 27, 1999

Larry Reed **HCFA** 

(410) 786-0681

Pages:

4, including this cover sheet.

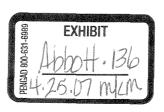
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Mary E. Riordan

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#### COMMENTS:

Bob and Larry - Attached is the letter from Pete Stark that I mentioned to each of you. Bob, I will send the other information by separate fax. Thanks! Mary



T-624 P.02/04 F-581

# UNITED STATES DEPARTMENT OF JUSTICE CIVIL DIVISION COMMERCIAL LITIGATION BRANCH CIVIL FRAUD SECTION

### FACSIMILE TRANSMISSION RECORD

DATE:	April 26, 1999
FAX NO.:	(202) 205-0604
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NOTE:

Letter from Congressman Stark to HOFA.

administrator last week. Stark is not aware

of the aci tom but apparently is aware of our contacts with FIBT BotaBank.

PAGES:

(Including this cover sheet)

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### COMMITTEE ON WAYS AND MEANS

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U.S. HOUSE OF REPRESENTATIVES WASHINGTON, DC 20616

SUBCOMMETTEE ON HEALTH

April 21, 1999

Marie Hart Manager Constitution

The Honorable Nancy-Ann Min DeParle
Administrator, Health Care Financing Administration
200 Independence Avenue SW
Washington DC 20201

Dear Administrator DeParle:

I urge you to take a simple and easy step to completed an engoing fraudulent practice by some pharmaceutical manufacturers that is costing Medicare and Medicaid hundreds of millions of dollars in excessive reimbursement payments. It is my understanding that HCFA and various antifraud units of the government have been working with a company known as First Data Bank to make available more accurate drug pricing information. If my understanding is correct, I request that you immediately issue written guidance to the States' Medicaid Programs approving their use of First Data Bank's agreed reporting of more accurate prices in calculating reimbursement amounts for certain injection, infusion and inhalation drugs and biologicals. I also request that you take similar action to insure that the Medicare carriers have access to and use the more accurate First Data Bank prices for the drugs and biologicals in question.

We have been working together for a long time to make sure that the amounts paid for prescription drugs by the Medicare, Medicaid and other Pederally funded programs, are not excessive, particularly in light of the applicable laws and regulations which require that reimbursements be reasonable and based upon the acquisition cost of the drug. Although I do not know the specifics, I am aware of the existence of a joint enforcement team comprised of representatives of the Department of Justice, the HHS Office of Inspector General, HCFA, and the National Association of Medical Fraud Control Units that is dedicated to resolving a severe problem resulting from inflated and misleading price information about the above referenced drugs and biologicals.

I now understand that a positive result of these combined efforts has been an agreement whereby First Data Bank, the private entity that gathers and reports drug prices to all of the States' Medicaid programs, will take appropriate steps to insure that the reported prices for the prescription drugs in question more closely reflect trutiful and actual prices rather than prices that have been The Honorable Nancy-Ann Min DeParle April 20, 1999 Page 2

falsely inflated in order to cause the Medicare and Medicaid programs to pay exorbitant reimbursement in excess of that provided by law. I have also been advised that the State Medicaid Agencies look to HCFA for approval of their prescription drug reimbursement plans and, accordingly, have sought HCFA's approval of their proposed use of the more accurate prices as part of their prescription drug reimbursement plans.

I am disappointed to learn that HCFA has not yet provided the States' Medicaid programs with written guidance that will facilitate the receipt and use of more accurate and truthful prices, rather than the falsely inflated prices, in estimating acquisition costs for reimbursement purposes. This long overdue correction should save Medicaid and Medicare hundreds of millions of dollars and go a long way toward insuring that scarce health care dollars are efficiently used to provide the programs' beneficiaries with the care that they need. As I understand it, every day we delay wastes more money. It will also be of great help to the Joint Enforcement Team's efforts to put an end to the unreasonably high reimbursement for the drugs that have been the subject of this gress price manipulation and gouging of the federal programs that you supervise.

I strongly urge you to provide the written direction to the State Medicaid Programs to facilitate the rapid implementation of the Joint Enforcement Team's recommendation to use the First Data Bank prices. I also urge you to provide similar guidance to the Medicare carriers.

In the event that you believe that a more formal inquiry by Congress will facilitate a resolution to this very serious problem, please let me know. Your, attention and action is vital in suppling this hemorrhage of Medicare and Medicaid program dollars.

Thank you for your help.

Pete Stark

Ranking Democrat

FPS/vj